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## Articles

### THE NEW ROLE OF STATUTORY AGGRAVATING CIRCUMSTANCES IN AMERICAN DEATH PENALTY LAW

*Bruce S. Ledewitz* 317

This article examines the quantitative and qualitative requirements encompassed in the Supreme Court's latest formulation of the role of statutory aggravating circumstances in death penalty law. The author further evaluates current state statutory aggravating circumstances in light of this new formulation. Finally, the author urges an extensive analysis by the Court in reviewing state sentencing systems to ensure *Furman's* promise of rationality in determining who deserves to die.

### OWNERSHIP AT SEA: IDENTIFYING THOSE ENTITLED TO LIMIT LIABILITY IN THE ADMIRALTY

*Alfred S. Pelaez* 397

The ability to limit liability to the after the occurrence value of a vessel responsible for a maritime catastrophe is of critical importance and frequently dwarfs all other aspects of the controversy surrounding such disasters. Yet, it is often difficult to identify those entitled to seek such relief. This article explores the ranks of legal and equitable owners; of demise charterers; and of owners *pro hac vice* who may be entitled to limit liability. The article also delves into the problem of piercing corporate veils to permit or deny limitation. In concluding, the author argues that the complexity of modern business structures created for a host of tax and other considerations make a tying of the right to limit to the concept of ownership unrealistic, and calls for a more pragmatic solution to the problem.

## Essay

### THE TASK OF THE FEDERAL JUDICIARY

*Edward Dumbauld* 449

After first examining the structure and power of the federal court system, Senior United States District Judge Edward Dumbauld reviews the role of the federal judiciary in society. The writer advocates that courts should not be expected to solve all problems and abolish all evils which exist in society and proposes the narrowing of subject matter jurisdiction and the abolition of diversity jurisdiction to enable the federal courts to concentrate on matters of genuine national concern.

## Comments

### **PUBLIC SCHOOL PRAYER AND THE FIRST AMENDMENT: RECONCILING CONSTITUTIONAL CLAIMS**

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For more than twenty years, the establishment clause of the first amendment has been consistently held to bar any form of prayer or devotional exercise in public schools, at least when prescribed by law, and frequently also when initiated by students. The author examines the two principal Supreme Court decisions that have produced this constitutional doctrine, and the manner in which other courts have both followed and expanded on these rulings. The author concludes, however, that the absolute outlawing of all religious expression by public school students is not a logically necessary result, and observes an emerging trend of free exercise and free expression based upon the first amendment.

### **THE SUPREME COURT AS GUARDIAN OF THE ENVIRONMENT: THE *Metropolitan Edison* DECISION IN PERSPECTIVE**

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The United States Supreme Court has ruled that the National Environmental Policy Act does not require the consideration of psychological health impacts resulting from the fear of an accident at a nuclear generating facility. This Comment places the Court's recent decision within the framework of past decisions which have excluded the courts as arbiters of substantive questions of environmental policy. By eliminating from environmental regulation the broad policy issues manifested by public fear of the proposed activity, the Court has strengthened the effectiveness of the regulatory scheme as a tool for the protection of the physical environment.

### **PROVING DISABLING PAIN IN SOCIAL SECURITY DISABILITY PROCEEDINGS: THE SOCIAL SECURITY ADMINISTRATION AND THE THIRD CIRCUIT COURT OF APPEALS**

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The author explores the conflicting interpretations of the Social Security Act's definition of "disability" developed by the Third Circuit Court of Appeals and the Social Security Administration. After a general discussion of the disability issue, the Comment centers on the specific issue of when subjectively-felt pain may constitute a disability. The author concludes that the continuing existence of dual standards in this area is unacceptable, and suggests that the Administration should attempt to conform its administration of the disability insurance program to judicially evolved standards.

## Recent Decisions

**CONSTITUTIONAL LAW—COMMERCE CLAUSE—TENTH AMENDMENT—STATE IMMUNITY—LABOR RELATIONS—*Kramer v. New Castle Area Transit Authority*, 677 F.2d 308 (3d Cir. 1982), cert. denied, 103 S. Ct. 786 (1983).**

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### FUNDAMENTALS OF SECURITIES REGULATION

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